Supreme Court, U.S.
FILED
AUG 16 2004
OFFICE OF THE CLERK

No. 04-524

In the

Supreme Court of the United States

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THOMAS EDWARD TRACY

*Petitioner*

v.

ANDREA LYN TRACY

(a.k.a. ANDREA COCKFIELD)

and

PHYLLIS W. BECK, Judge of Superior Court of Pennsylvania

and

RHONDA LEE DANIELE, Judge Montgomery County Court of Common Pleas,

*Respondent(s)*

ON PETITION FOR WRIT OF CERTIORARI
TO THE PENNSYLVANIA SUPREME COURT

# PETITION FOR WRIT OF CERTIORARI

DANIEL C. BARRISH
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Law Offices
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Abington, PA 19001
(215) 886-7870
*Counsel for Petitioner*

## QUESTION

Is a litigant in the Pennsylvania Unified Judicial System, established by Article V of Pennsylvania's current constitution, as amended, deprived of his 14th Amendment right of freedom from state taking "of life, liberty or property, without due process of law" and denied "equal protection of the laws," where said state constitution mandates that all judges, who need only meet a residency requirement and be member of the state bar, shall be elected without regard to merit and that the self-policing Pennsylvania Supreme Court shall have exclusive supervisory and administrative control of the entire Pennsylvania judicial system without any legislative or executive constraint (save for the state legislature's ability punitively to impeach), and without any independent forum before which the litigant could express concerns of judicial integrity and be provided a fair, timely and legally enforceable ruling?

## PARTIES TO THE PROCEEDINGS

All parties to the proceeding in the Court whose judgment is sought to be reviewed are included in the caption.

## RULE 29.6 CORPORATE DISCLOSURE STATEMENT

No party involved in this matter is a corporate entity thus negating the necessity of a Corporate Disclosure Statement.

## CERTIFICATION OF SERVICE OF 2403(B) NOTICE

The undersigned in writing dated September 13, 2004 has advised the Pennsylvania Attorney General that Section 2403(b) may apply in that the Constitution of the Commonwealth of Pennsylvania is being challenged for violating Amendments V and XIV of the Federal Constitution. To date no lower court has certified to the State Attorney General that the Federal Constitutionality of Pennsylvania's own Constitution is being drawn into question.

## OPINIONS

None, but Order of Pennsylvania Supreme Court, dated May 19, 2004 is attached as Appendix A.

## STATEMENT OF JURISDICTION

A state court of last resort (Pennsylvania Supreme Court) has decided an important question of federal law that has not been, but should be, settled by the United States Supreme Court, and has decided an important federal question in a way that conflicts with relevant decisions of this Most Honorable Court.

## CONSTITUTIONAL PROVISIONS INVOLVED

This matter deals with constitutional provisions in conflict. Amendment V of the Federal Constitution states that no one shall "be deprived of life, liberty, or property, without due process of law." Amendment XIV, Section 1, directs that in no way can a "state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (Appendix B).

Article V Section 1 of the Pennsylvania Constitution directs a "UNIFIED JUDICIAL SYSTEM...consisting of the Supreme Court..." Section 10 JUDICIAL ADMINISTRATION gives exclusively to the Pennsylvania Supreme Court the following, (a) "supervisory and administrative authority over all of the courts;" (b) the ability to "appoint a Court Administrator;" and (c) the obligation to "prescribe general rules governing practice, procedure and the conduct of all courts." (Appendix C)

The fact being that all Pennsylvania judges are elected without merit selection and are solely responsible to no one other than the Pennsylvania Supreme Court, which exclusively polices itself, results in deprivation of "due process of law" and "equal protection of the laws."

## STATEMENT OF THE CASE

A Montgomery County, Pennsylvania, custody order was entered after trial, appealed and affirmed by the intermediate appellate Pennsylvania Superior Court, with a further Petition for Allowance of Appeal filed with the Pennsylvania Supreme Court and denied. The Superior Court Judge dismissed the Appeal because of a purported defect in your Petitioner's Appellant's Brief, a dismissal which the Pennsylvania Supreme Court took at face value with no further investigation and with no consideration of the matter on its merits because the Pennsylvania Rules of Appellate Procedure prevent the Movant's brief from being submitted with a Petition for Allowance of Appeal. Your Petitioner, though, timely filed with the Pennsylvania Supreme Court a Petition for Special Relief, jurisdiction for which is reserved for the Pennsylvania Supreme Court pursuant to 42 Pa.C.S. §726, frequently referenced as "King's Bench Authority." See Appendix D.

Your Petitioner so filed alleging judicial misconduct of the worst kind both at the local County Common Pleas level, and then at the intermediary appellate level, the Pennsylvania Superior Court. The Petition was denied as was your Petitioner's Application for Reconsideration, this second denial being the Judgment or Order sought to be reviewed, entered on May 19, 2004 by the Pennsylvania Supreme Court (Appendix A), and docketed at No. 141 MM 2003. The Order of which reconsideration was sought was dated March 11, 2004 and is attached as Appendix E. The actual Application for Reconsideration filed on March 26, 2004 is attached as Appendix F.

## REASONS FOR GRANTING THE PETITION

The essence of this Petition for Allowance of Appeal is the seemingly irreconcilable conflict between the Constitution of the Commonwealth of Pennsylvania and the Constitution of the United States whereby Pennsylvania's Independent Judicial System, answerable to no one, deprives the citizens of Pennsylvania, and in particular civil litigants, of their rights to due process and equal protection of the law.

While the facts of the case at bar include specific reference to extreme judicial misconduct on the part of at least one Common Pleas Judge (county) and one Superior Court Judge (intermediary appellate), and while Your Petitioner and Counsel have taken repeated oaths in regard to the truthfulness of these allegations, it is not the facts which should be the primary concern of this Most Honorable Court, but rather that there is no established formal body to whom issues of this nature could be presented for prompt and fair disposition. It is this total lack of accountability on the part of Pennsylvania's Judiciary that infringes upon the basic rights of civil litigants provided them by the United States Constitution (Appendix B).

Section 5 of Pennsylvania's 1968 Constitution (still in effect, as amended) is attached and confirms that the Pennsylvania Supreme Court is totally and solely in charge of the Pennsylvania Judicial System, consisting exclusively of elected judges, nominated by a political party, and who were subject to no mandatory merit screening whatsoever.

Although there are two provisions which appear to be judicial constraints, they are merely illusory. The Pennsylvania Constitution was amended in 1993 to include what is supposed to be a two tier disciplinary apparatus, the Judicial Conduct Board with whom

complaints against judges are filed, and if that Board elects to pursue a complaint it serves as a prosecutor before the Court of Judicial Discipline. There is a third tier, though, because the Pennsylvania Constitution directs that the other two judicial disciplinary tiers are responsible to the Pennsylvania Supreme Court. Notwithstanding even the control of its apparatus by the Pennsylvania Supreme Court, the disciplinary procedure, like the Pennsylvania Constitutional provision for impeachment, is, as quoted, "disciplinary" in nature and in no way assists any legitimately aggrieved civil litigant in the matter which brings him to Court.

The case at bar, is perhaps the best types of cases to illustrate that discussed above. Your Petitioner was the plaintiff in regard to custody litigation involving his ex-wife and their two children, then a nine-year-old boy and a fourteen-year-old daughter. Both Your Petitioner and counsel assert extreme judicial misconduct at various levels of the proceedings and that issue has never been heard, much less resolved, notwithstanding the fact that the children are nearing the ages of twelve and eighteen. If Petitioner is correct in his allegations three years of the children's lives have been taken from them without due process and equal protection of the law by the Commonwealth of Pennsylvania.

Your Petitioner proceeded not only with customary appeals but attempted to have his concerns brought to the attention of the Pennsylvania Supreme Court by way of eight separate filings pursuant to the Pennsylvania Supreme Court's King's Bench Authority as referenced above, and in all instances the judges against whom actions were filed were represented by staff counsel in the office of the Pennsylvania State Court Administrator, said Court Administrator having been appointed exclusively by the Pennsylvania Supreme Court and responsible exclusively thereto. Unlike Federal Rule 7

which prohibits practice by attorneys employed by Federal Courts, Pennsylvania court employed counsel are actually directed to appear before the Pennsylvania Supreme Court and represent all judges against whom actions are brought. The Appellate Court Rules also allow a party defendant in a King's Bench matter the privilege of filing, without prejudice, a letter of intention not to reply, no matter the severity of the allegations and their frequency (Appendix G), and in the numerous King's Bench proceedings involving the herein captioned judges they never filed any reply or answer to the well-documented, very significant charges against them, but then this Most Noble Judicial Body, The United States Supreme Court, could otherwise never discover this because, just as in the state court Order which is the subject of this Petition, the Pennsylvania Supreme Court routinely expunges and removes from all captions the names of all judges—period! (In addition the Pennsylvania Supreme Court has especially blocked internet access to this matter, perhaps the only time it has done so.)

## CONCLUSION

WHEREFORE Your Petitioner respectfully prays that this Most Honorable Court grant a Writ of Certiorari.

Respectfully Submitted:

Daniel C. Barrish, Esquire
Law Office of Daniel C.
Barrish, Esquire
1912 Guernsey Ave.
Abington, PA 19001
(215) 886-7870

*Counsel for Petitioner*

APPENDIX A
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

| | | |
|---|---|---|
| THOMAS EDWARD TRACY, | : | No. 141 MM 2003 |
| | : | |
| Petitioner | : | |
| | : | |
| v. | : | |
| | : | |
| ANDREA LYN (TRACY) COCKFIELD SUPERIOR COURT OF PENNSYLVANIA JUDGE, MONTGOMERY COUNTY COURT OF COMMON PLEAS JUDGE, | : | |
| | : | |
| Respondents | : | |
| | : | |

ORDER

PER CURIAM

AND NOW, this 19th day of May, 2004, the Application for Reconsideration is denied.

TRUE & CORRECT COPY
ATTEST: MAY 19 2004
/s/_____
SHIRLEY BAILEY
CHIEF CLERK

## APPENDIX B

### The Constitution of the United States of America

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way

abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

# APPENDIX C
## Article V
## THE JUDICIARY

Unified Judicial System
Section 1.
The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal and traffic courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in this unified judicial system.

Supreme Court
Section 2.
The Supreme Court
(a) shall be the highest court of the Commonwealth and in this court shall be reposed the supreme judicial power of the Commonwealth;
(b) shall consist of seven justices, one of whom shall be the justice; and
(c) shall have such jurisdiction as shall be provided by law.

Superior Court
Section 3.
The Superior Court shall be a statewide court, and shall consist of the number of judges, which shall be not less than seven judges, and have such jurisdiction as shall be provided by this Constitution or by the General Assembly. One of its judges shall be the president judge.

Commonwealth Court
Section 4.
The Commonwealth Court shall be a statewide court, and shall consist of the number of judges and have such

jurisdiction as shall be provided by law. One of its judges shall be the president judge.

Courts of Common Pleas

Section 5.

There shall be one court of common pleas for each judicial district

(a) having such divisions and consisting of such number of judges as shall be provided by law, one of whom shall be the president judge; and

(b) having unlimited original jurisdiction in all cases except as may otherwise be provided by law.

Community Courts; Philadelphia Municipal Court and Traffic Court

Section 6.

(a) in any judicial district a majority of the electors voting thereon may approve the establishment or discontinuance of a community court. Where a community court is approved, one community court shall be established; its divisions, number of judges and jurisdiction shall be as provided by law.

(b) The question whether a community court shall be established or discontinued in any judicial district shall be placed upon the ballot in a primary election by petition which shall be in the form prescribed by the officer of the Commonwealth who under law shall have supervision over elections. The petition shall be filed with that officer and shall be signed by a number of electors equal to five percent of the total votes cast for all candidates for the office occupied by a single official for which the highest number of votes was cast in that judicial district at the last preceding general or municipal election. The manner of signing such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained herein shall be governed by the general laws relating to elections. The question shall not be

placed upon the ballot in a judicial district more than once in any five-year period.
(c) In the City of Philadelphia there shall be a municipal Court and a traffic court. The number of judges and the jurisdiction of each shall be as provided by law. These courts shall exist so long as a community court has not been established or in the event one has been discontinued under this section.

Justices of the Peace; Magisterial Districts
Section 7.
(a) In any judicial district, other than the City of Philadelphia, where a community court has not been established or where one has been discontinued there shall be one justice of the peace in each magisterial district. The jurisdiction of the justice of the peace shall be as provided by law.
(b) The General Assembly shall by law establish classes of magisterial districts solely on the basis of population and population density and shall fix the salaries to be paid justices of the peace in each class. The number and boundaries of magisterial districts of each class within each judicial district shall be established by the Supreme Court or by the courts of common pleas under the direction of the Supreme Court as required for the efficient administration of justice within each magisterial district.

Other Courts
Section 8.
The General Assembly may establish additional courts or divisions of existing courts, as needed, or abolish any statutory court or division thereof.

Right of Appeal
Section 9.
There shall be a right of appeal in all cases to a court of record from a court not of record; and there shall also be a right of appeal from a court of record or from an

administrative agency to a court of record or to an appellate court, the selection of such court to be as provided by law; and there shall be such other rights of appeal as may be provided by law.

Judicial Administration
Section 10.
(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts and justices of the peace, including authority to temporarily assign judges and justices of the peace from one court or district to another as it deems appropriate.
(b) The Supreme Court shall appoint a court administrator and may appoint such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of all courts and justices of the peace.
(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court or justice of the peace, including the power to provide for assignments and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the Judicial Branch, if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.
(d) The Chief Justice and president judges of all courts with seven or less judges shall be the justice or judge longest in

continuous service on their respective courts; and in the event of his resignation from this position the justice or judge next longest in continuous service shall be the Chief Justice or president judge. The president judges of all other courts shall be selected for five-year terms by the members of their respective courts, except that the president judge of the traffic court in the City of Philadelphia shall be appointed by the Governor. A chief Justice or president judge may resign such position and remain a member of the court. In the event of a tie vote for office of president judge in a court which elects its president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

(e) Should any two or more justices or judges of the same court assume office at the same time, they shall cast lots forthwith for priority of commission, and certify the results to the Governor who shall issue their commissions accordingly.

Judicial Districts; Boundaries

Section 11.

The number and boundaries of judicial districts shall be changed by the General Assembly only with the advice and consent of the Supreme Court.

Qualifications of Justices, Judges and Justices of the Peace

Section 12.

(a) Justices, judges and justices of the peace shall be citizens of the Commonwealth. Justices and judges, except the judges of traffic court in the City of Philadelphia, shall be members of the bar of the Supreme Court. Justices and judges of statewide courts, for a period of one year preceding their election or appointment and during their continuance in office, shall reside within the Commonwealth. Other judges and justices of the peace, for a period of one year preceding their election or appointment and during their continuance in office, shall

reside with their respective districts, except as provided in this article for temporary assignments.

(b) Judges of the traffic court in the City of Philadelphia and justices of the peace shall be members of the bar of the Supreme Court or shall complete a course of training and instruction in the duties of their respective offices and pass an examination prior to assuming office. Such courses and examinations shall be as provided by law.

Election of Justices, Judges and Justices of the Peace; Vacancies

Section 13.

(a) Justices, judges and justices of the peace shall be elected at the municipal election next preceding the commencement of their respective terms of office by the electors of the Commonwealth or the respective districts in which they are to serve.

(b) A vacancy in the office of justice, judge or justice of the peace shall be filled by appointment by the Governor. The appointment shall be with the advice and consent of two-thirds of the members elected to the Senate, except in the case of justices of the peace which shall be by a majority. The person so appointed shall serve for a term ending on the first Monday of January following the next municipal election more than ten months after the vacancy occurs or for the remainder of the unexpired term whichever is less, except in the case of persons selected as additional judges to the Superior Court, where the General Assembly may stagger and fix the length of the initial terms of such additional judges by reference to any of the first, second and third municipal elections more than ten months after the additional judges are selected. The manner by which any additional judges are selected shall be provided by this section for the filling of vacancies in judicial offices.

(c) The provisions of section thirteen (b) shall not apply either in the case of a vacancy to be filled by retention election as provided in section fifteen (b), or in the case of

a vacancy created by failure of a justice or judge to file a declaration for retention election as provided in section fifteen

(b) in the case of a vacancy occurring at the expiration of an appointive term under section thirteen (b), the vacancy shall be filled by election as provided in section thirteen (a).

(d) At the primary election in 1969, the electors of the Commonwealth may elect to have the justices and judges of the Supreme, Superior, Commonwealth and all other statewide courts appointed by the Governor from a list of persons qualified for the offices submitted to him by the Judicial Qualifications Commission. If a majority vote of those voting on the question is in favor of this method of appointment, then whenever any vacancy occurs thereafter for any reason in such court, the Governor shall fill the vacancy by appointment in the manner prescribed in this subsection. Such appointment shall not require the consent of the Senate.

(e) Each justice or judge appointed by the Governor under section thirteen

(d) shall hold office for an initial term ending the first Monday of January following the next municipal election more than twenty-four months following the appointment.

Judicial Qualifications Commission

Section 14.

(a) Should the method of judicial selection be adopted as provided in section thirteen (d), there shall be a Judicial Qualifications Commission, composed of four non-lawyer electors appointed by the Governor and three non-judge members of the bar of the Supreme Court appointed by the Supreme Court. No more than four members shall be of the same political party. The members of the commission shall serve for terms of seven years, with one member being selected each year. The commission shall consider all names submitted to it and recommend to the Governor not

fewer than ten nor more than twenty of those qualified for each vacancy to be filled.
(b) During his term, no member shall hold a public office or public appointment for which he receive compensation, nor shall he hold office in a political party or political organization.
(c) A vacancy on the commission shall be filled by the appointment authority for the balance of the term.

Tenure of Justices, Judges and Justices of the Peace Section 15.
(a) The regular term of office of justices and judges shall be ten years and the regular term of office for judges of the municipal court and traffic court in the City of Philadelphia and of justices of the peace shall be six years. The tenure of any justice or judge shall not be affected by changes in judicial districts or by reduction in the number of judges.
(b) A justice or judge elected under section thirteen (a), appointed under section thirteen (d) or retained under this section fifteen (b) may file a declaration of candidacy for retention election with the officer of the Commonwealth who under law shall have supervision over elections on or before the first Monday of January of the year preceding the year in which his term of office expires. If no declaration of candidacy for retention election with the officer of the Commonwealth who under law shall have supervision over elections on or before the first Monday of January of the year preceding the year in which his term of office expires. If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such justice of judge, to be filled by election under section thirteen (a) or by appointment under section thirteen (d) if applicable. If a justice or judge files a declaration, his name shall be submitted to the electors without party designation, on a separate judicial ballot or in a separate column on voting machines, at the municipal election immediately preceding the expiration of the term of office of the justice

or judge, to determine only the question whether he shall be retained in office. If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section thirteen (b) or under section thirteen (d) if applicable. If a majority favors retention, the justice or judge shall serve for the regular term of office provided herein, unless sooner removed or retired. At the expiration of each term a justice or judge shall be eligible for retention as provided herein subject only to the retirement provisions of this article.

Compensation and Retirement of Justices, Judges and Justices of the Peace
Section 16.
(a) Justices, judges and justices of the peace shall be compensated by the Commonwealth as provided by law. Their compensation shall not be diminished during their terms of office, unless by law applying generally to all salaried officers of the Commonwealth.
(b) Justices, judges and justices of the peace shall be retired upon attaining the age of seventy years. Former and retired justices, judges and justices of the peace shall receive such compensation as shall be provided by law. No compensation shall be paid to any justice, judge or justice of the peace who is suspended or removed from office under section eighteen of this article or under Article VI.
(c) A former or retired justice or judge may, with his consent, be assigned by the Supreme Court on temporary judicial service as may be prescribed by rule of the Supreme Court.

Prohibited Activities
Section 17.
(a) Justices and judges shall devote full time to their judicial duties, and shall not engage in the practice of law, hold office in a political party or political organization, or hold an office or position of profit in the government of the

United States, the Commonwealth or any municipal corporation or political subdivision thereof, except in the armed service of the United States or the Commonwealth.
(b) Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.
(c) No justice, judge or justice of the peace shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument of perquisite other than the salary and expenses provided by law.
(d) No duties shall be imposed by law upon the Supreme Court or any of the justices thereof or the Superior Court or any of the judges thereof, except such as are judicial, nor shall any of them exercise any power of appointment except as provided in this Constitution.

Suspension, Removal, Discipline and Compulsory Retirement
Section 18.
(a) There shall be a Judicial Inquiry and Review Board having nine members as follows: three judges of the courts of common pleas from different judicial districts and two judges of the Superior Court, all of whom shall be selected by the Supreme Court; and two non-judge members of the bar of the Supreme Court and two non-lawyer electors, all of whom shall be selected by the Governor.
(b) The members shall serve for terms of four years, provided that a member, rather than his successor, shall continue to participate in any hearing in progress at the end of his term. A vacancy on the board shall be filled by the respective appointing authority for the balance of the term. The respective appointing authority may remove a member only for cause. No member shall serve more than four consecutive years; he may be reappointed after a lapse of

one year. Annually the members of the board shall elect a chairmen. The board shall act only with the concurrence of a majority of its members.

(c) A member shall not hold office in a political party or political organization. Members, other than judges, shall be compensated for their services as the Supreme Court shall prescribe. All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.

(d) Under the procedure prescribed herein, any justice or judge may be suspended, removed from office or otherwise disciplined for violation of section seventeen of this article, misconduct in office, neglect of duty, failure to perform his duties, or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute, and may be retired for disability seriously interfering with the performance of his duties.

(e) The board shall keep informed as to matters relating to grounds for suspension, removal, discipline, or compulsory retirement of justices or judges. It shall receive complaints or reports, formal or informal, from any source pertaining to such matters, and shall make such preliminary investigations as it deems necessary.

(f) The board, after such investigation, may order a hearing concerning the suspension, removal, discipline or compulsory retirement of a justice or judge. The board's orders for attendance of or testimony by witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings.

(g) If, after hearing, the board finds good cause therefor, it shall recommend to the Supreme Court the suspension, removal, discipline or compulsory retirement of the justice or judge.

(h) The Supreme Court shall review the record of the board's proceedings on the law and facts and may permit the introduction of additional evidence. It shall order suspension, removal, discipline or compulsory retirement,

or wholly reject the recommendation, as it finds just and proper. Upon on order for compulsory retirement, the justice or judge shall be retired with the same rights and privileges were he retired under section sixteen of this article. Upon an order for suspension or removal, the justice or judge shall be suspended or removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the board shall be confidential but upon being filed by the board in the Supreme Court, the record shall lose its confidential character. The filing of papers with and the giving of testimony before the board shall be privileged.

(i) No justice or judge shall participate as a member of the board or of the Supreme Court in any proceeding involving his suspension, removal, discipline or compulsory retirement.

(j) The Supreme Court shall prescribe rules of procedure under this section.

(k) The Supreme Court shall prescribe rules of procedure for the suspension, removal, discipline and compulsory retirement of justices of the peace.

(l) A justice, judge or justice of the peace convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section eighteen shall forfeit automatically his judicial office and thereafter be ineligible for judicial office.

(m) A justice or judge who shall file for nomination for or election to any public office other than a judicial office shall forfeit automatically his judicial office.

(n) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in the Senate shall exercise any of the duties of his office until he has been acquitted.

EXHIBIT D

JUDICIARY AND JUDICIAL PROCEDURE (TITLE 42)

PART II. ORGANIZATION
SUBPART A. COURTS AND DISTRICT JUSTICES

CHAPTER 7. JURISDICTION OF APPELLATE COURTS

§ 726. Extraordinary jurisdiction.

Notwithstanding any other provision of law, the Supreme Court may, on its own motion or upon petition of any party, in any matter pending before any court or district justice of this Commonwealth involving an issue of immediate public importance, assume plenary jurisdiction of such matter at any stage thereof and enter a final order or otherwise cause right and justice to be done.

APPENDIX E
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

| | | |
|---|---|---|
| THOMAS EDWARD TRACY, | : | No. 141 MM 2003 |
| Petitioner | : | |
| v. | : | |
| ANDREA LYN (TRACY) COCKFIELD SUPERIOR COURT OF PENNSYLVANIA JUDGE, MONTGOMERY COUNTY COURT OF COMMON PLEAS JUDGE, | : | |
| Respondents | : | |

ORDER

PER CURIAM

AND NOW, this 11th day of March, 2004, the Application for Extraordinary Relief is denied and the judges' names are to be stricken from the caption.

TRUE & CORRECT COPY
ATTEST: MAR 11 2004
/s/_____
SHIRLEY BAILEY
CHIEF CLERK

APPENDIX F

IN THE SUPREME COURT
OF PENNSYLVANIA
MIDDLE DISTRICT

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No. 141 M. D. Misc. Docket 2003

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THOMAS EDWARD TRACY
Petitioner
vs.
ANDREA LYN TRACY
(a.k.a. ANDREA COCKFIELD)
and
PHYLLIS W. BECK, Judge of Superior Court of Pennsylvania
and
RHONDA LEE DANIELE, Judge Montgomery County Court of Common Pleas
Respondents

---

APPLICATION FOR RECONSIDERATION
PURSUANT TO RULE 1123

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BECAUSE THIS HONORABLE COURT dismissed your Petitioner's Petition on March 11, 2004 (Exhibit A), your Petitioner now seeks Reconsideration of the matter for the reasons below stated.

Your Petitioner respectfully submits that the Pennsylvania Judicial System violates the Federal Constitution, and in particular the Amendments pertaining to Equal Protection of the Law and Due Process.

Without Merit Selection of judges there exists a Judiciary which essentially polices itself. It follows that it is accountable to no one.

The only restraint on the Pennsylvania Judicial System is the ability for the legislature to impeach, but that deals with punishment for a judge rather than the preservation of the rights of individuals.

While there is the Judicial Conduct Board and the Court to which it could file charges, that body, and the actual Court itself, is responsible to the Pennsylvania Supreme Court.

The instant matter shows how an individual who feels he is aggrieved because of judicial improprieties has no remedy. Reports to the Judicial Conduct Board literally take years to resolve. Of particular note is the fact that this is a custody matter and by the time issues of Judicial misconduct are resolved at least one child will no longer be a minor, suggesting that the Judicial System of Pennsylvania, while it asserts that it is most concerned about "the best interests of children," those interests can in no way be protected or timely pursued. In the instant matter there is no doubt whatsoever that Judge Beck seriously violated Canons of Ethics and filed seemingly intentional false financial statements, yet she is retained at least for another full calendar year, 2004, surely unable to maintain her credibility in the legal community because of her actions. The Judicial Conduct Board may seek to mete out punishment, but in the interval it is respectfully submitted that the Judicial community has someone of questionable virtue in its midst, not someone who was elected but someone who is reappointed at the discretion of the Supreme Court. The Judicial Conduct Board reviews its cases in such a manner as one would not investigate an arson matter, meaning waiting until the

building is completely destroyed by fire before investigating its source.

Judge Rhonda Lee Daniele has made a mockery of the Judiciary by openly and notoriously repeatedly violating serious filing obligations. One must conclude that while she continues to serve as a Common Pleas Judge, she does so at the risk of injuring the public, especially the children.

Notwithstanding whether or not Petitioner's allegations are correct (but he still so maintains), there is absolutely no way for an aggrieved person to have the issues of fairness and honesty resolved in a timely manner.

This Honorable Court is aware of serious allegations that the Pennsylvania Court Administrator, Zygmont Pines, Esquire, has failed to meet certain job obligations, yet he still serves the Pennsylvania Supreme Court which appointed him, with impunity.

In the numerous related matters before the Pennsylvania Supreme Court, and in particular the instant matter, in which Your Petitioner has been involved, the names of all judges mentioned in the caption have been expunged, thereby depriving the public from knowing what charges have leveled against any judge, whether true or not. It seems that only judges' names are stricken from the caption; certainly this is a denial of equal protection to the public.

These are serious issues, which if not successfully resolved in an appropriate and timely manner, that will be raised in a Petition for Allowance of Appeal before the United States Supreme Court.

It follows that Your Petitioner prays for that which he has long sought, a remand to the Common Pleas Court, with the matter to be decided by an impartial, out-of-

county judge. In addition Your Petitioner seeks an immediate investigation into the activities of the two judges named in the instant caption against whom charges have been levied, said investigation to be conducted by the Pennsylvania Attorney General. Furthermore, Your Petitioner seeks an immediate rescission of the Order allowing Judge Beck to serve as a Senior Judge and the suspension of Judge Rhonda Daniele, without pay, pending investigations of both the Pennsylvania Attorney General and Judicial Conduct Board.

RESPECTFULLY SUBMITTED,

/s/ _____

Daniel C. Barrish, Esquire
Attorney for Petitioner
Attorney I.D. # 08718
1912 Guernsey Avenue
Abington, Pennsylvania 19001

VERIFICATION

Daniel C. Barrish, Esquire, attorney for Appellant/Petitioner, hereby certifies that the facts set forth in the foregoing "Application for Reconsideration Pursuant to Rule 1123" is true and correct to the best of my knowledge, information and belief, and that this Verification is taken, subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Dated: March 24, 2004

/s/_____

Daniel C. Barrish, Esq.,

Appellant Attorney
(215) 886-7870

EXHIBIT G

TITLE 210

APPELLATE PROCEDURE

Part Chap.

I. RULES OF APPELLATE PROCEDURE ... 1

Rule 3309. Applications for Extraordinary Relief.

(b) Answer.—An adverse party may file an answer no later than fourteen days after service of the application. An adverse party who does not intend to file an answer to the application shall, within the time fixed by these rules for the filing of an answer, file a letter stating that an answer will not be filed.

(c) Distribution and disposition.—Upon receipt of the answer, or a letter stating that no answer will be filed, from each party entitled to file such. the application and answer, if any, shall be distributed by the Prothonotary to the Supreme Court for its consideration. The Supreme Court may thereafter grant or deny the application or set it down for argument.

(d) Stays and supersedeas.—Where action is taken under this rule which has the effect of transferring jurisdiction of a matter to the Supreme Court, unless otherwise ordered by the Supreme Court such action shall be deemed the taking of an appeal as of right for the purposes of Chapter 17 (effect of appeals; supersedeas and stays), except that the lower court shall not have the power to grant reconsideration.